

2008 Instructions for Form 990 (Core Form)

Part V Statements Regarding Other IRS Filings and Tax Compliance

TIP: See *Glossary* for definition of terms used in the questions in this section.

TIP: Some questions below pertain to other IRS forms. Forms are available by calling 1-800-TAX-FORM (1-800-829-3676) or by downloading from the IRS Website at www.irs.gov. Most forms and publications are also available at your local IRS office. See also Appendix H, *Forms and Publications to File or Use*.

Line 1a. Number of information returns. The organization must use Form 1096 to transmit paper Forms 1099, 1098, 5498, and W-2G to the IRS, which are information returns reporting certain amounts paid or received by the organization. If the organization transmits any of these forms electronically, add this number to the total reported. Examples of payments requiring Form 1099 reporting include certain payments to **independent contractors** for services rendered.

Line 1b. Forms W-2G. Form W-2G pertains to certain gambling winnings.

Line 1c. Backup withholding. For more information on backup withholding for missing or incorrect names or taxpayer identification numbers, see Pub. 1281, *Backup Withholding for Missing and Incorrect Name/TIN(s)*.

Line 2b. Employment tax return filings. If the organization reported at least one employee on line 2a, answer whether it filed all required federal employment tax returns (which may include Form 940, Employer's Federal Unemployment (FUTA) Tax Return, and Form 941, Employer's Quarterly Federal Tax Return) relating to such employees. For more information, see the discussion of employment taxes in Pub. 557, *Tax-Exempt Status for Your Organization*.

Line 3a. Unrelated business income. Check "Yes" on line 3a if the organization's total gross income from all of its **unrelated trades and businesses** is \$1,000 or more for the year. Gross income is the amount of **gross receipts** less the cost of goods sold. See Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*, for a description of **unrelated business income** and the Form 990-T filing requirements for organizations having such income.

Caution: Neither Form 990-T nor Form 990 is a substitute for the other. Report on Form 990 items of income and expense that are also required to be reported on Form 990-T, Exempt Organization Business Income Tax Return when the organization is required to file both forms.

Line 3b. Form 990-T. Answer "Yes" if the organization filed the Form 990-T, Exempt Organization Business Income Tax Return, by the time this Form 990 is filed. Check "No" if the organization has filed an extension but has not filed the Form 990-T. If "No," provide an explanation in Schedule O, Supplemental Information to Form 990.

Caution: All tax-exempt organizations must pay estimated taxes with respect to their **unrelated business income** if they expect their tax liability to be \$500 or more. Use Form 990-W,

Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations, to compute these amounts.

Line 4a. Foreign accounts. Answer "Yes" if either item 1 or 2 below applies:

1. At any time during the calendar year ending with or within the organization's **tax year**, the organization had an interest in, or signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account); and
 - a. The combined value of all such accounts was more than \$10,000 at any time during the calendar year; and
 - b. The accounts were not with a U.S. military banking facility operated by a U.S. financial institution.
2. The organization owns more than 50% of the stock in any corporation that would answer "Yes" to item 1 above.

If "Yes," file Form TD F 90-22.1 by June 30 after the end of the calendar year with the Department of the Treasury at the address shown on the form.

Form TD F 90-22.1 is available by calling 1-800-TAX-FORM (1-800-829-3676) or by downloading it from the IRS website at www.irs.gov. Do not file FORM TD F 90-22.1 with the IRS or attach it to Form 990.

Line 4b. Foreign country. Enter the name of each foreign country in which a foreign account described in line 4a is located.

Line 5. Prohibited tax shelter transactions. Answer "Yes" to line 5a if the organization was a party to a prohibited tax shelter transaction as described in section 4965(e) at any time during the organization's **tax year**. A prohibited tax shelter transaction is any listed transaction, within the meaning of section 6707A(c)(2), and any prohibited reportable transaction. A prohibited reportable transaction is a confidential transaction within the meaning of Regulations section 1.6011-4(b)(3), and a transaction with contractual protection within the meaning of Regulations section 1.6011-4(b)(4).

An organization that files Form 990 (other than a section 527 political organization or a section 4947(a)(1) trust) and that is a party to a prohibited tax shelter transaction must file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction, and may also have to file Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code, and pay excise tax imposed by section 4965. For more information, see the instructions to Forms 8886-T and 4720.

Line 6. Solicitations of nondeductible contributions. Any fundraising solicitation by or on behalf of any section 501(c) or 527 organization that is not eligible to receive **contributions** deductible as charitable contributions for federal income tax purposes must include an explicit statement that contributions or gifts to it are not deductible as charitable contributions. The statement must be in an easily recognizable format whether the solicitation is made in written or printed form, by television or radio, or by telephone. Organizations whose annual **gross receipts** are normally not more than \$100,000 may answer "No" to line 6a.

Failure to disclose that contributions are not deductible could result in a penalty of \$1,000 for each day on which a failure occurs. The maximum penalty for failures by any organization, during any calendar year, shall not exceed \$10,000. In cases where the failure to make the

disclosure is due to intentional disregard of the law, more severe penalties apply. No penalty will be imposed if the failure is due to reasonable cause.

All organizations that qualify under section 170(c) to receive **contributions** that are deductible as charitable contributions for federal income tax purposes should answer “No” to line 6a.

TIP: See Pub. 1771, Charitable Contributions: Substantiation and Disclosure Requirements.

Line 7. Organizations that may receive deductible contributions under section 170(c).

Line 7 is directed only to organizations that may receive deductible charitable **contributions** under section 170(c). See Pub. 526, Charitable Contributions, for a description of such organizations. All other organizations should leave lines 7a through 7h blank and go to line 8.

Lines 7a and 7b. “Quid pro quo” contributions. If a donor makes a payment in excess of \$75 partly as a contribution and partly in consideration for goods or services provided by the organization, the organization generally must notify the donor of the value of the goods and services provided.

Example. A donor gives a charity \$100 in consideration for a concert ticket valued at \$40 (a quid pro quo contribution). In this example, \$60 would be deductible. Because the donor’s payment exceeds \$75, the organization must furnish a disclosure statement even though the taxpayer’s deductible amount does not exceed \$75. Separate payments of \$75 or less made at different times of the year for separate fundraising events will not be aggregated for purposes of the \$75 threshold.

TIP: See Pub. 1771, Charitable Contributions: Substantiation and Disclosure Requirements.

Line 7c and 7d. Form 8282. The organization must answer “Yes” and indicate the number of forms filed if it filed Form 8282, Donee Information Return, to report information to the IRS and to donors about dispositions of certain donated property made within three years after the donor contributed the property.

Line 7e and 7f. Personal benefit contract. If, in connection with a transfer of funds to the organization, the organization directly or indirectly pays premiums on any personal benefit contract, or there is an understanding or expectation that any person will directly or indirectly pay such premiums, the organization must report on Form 8870, Information Return for Transfers Associated with Certain Personal Benefit Contracts, the premiums it paid, and the premiums paid by others but treated as paid by the organization. The organization must report and pay an excise tax, equal to premiums paid, on Form 4720. A *personal benefit contract* is generally any life insurance, annuity, or endowment contract that benefits, directly or indirectly, the transferor, a member of the transferor’s family, or any other person designated by the transferor (other than an organization described in section 170(c)).

Line 7g. Qualified intellectual property. Form 8899, Notice of Income from Donated Intellectual Property, must be filed by certain organizations that received a charitable gift of qualified intellectual property that produces net income. The organization should check “Yes” if it provided all required Forms 8899 for the year for net income produced by donated qualified intellectual property. Qualified intellectual property is any patent, copyright (other than certain self created copyrights), trademark, trade name, trade secret, know-how, software (other than certain “canned” or “off-the-shelf” software or self created software), or similar property, or applications or registrations of such property.

Line 7h. Form 1098-C. A donor of a (1) motor vehicle for use on public roads, (2) boat, or (3) airplane cannot claim a charitable contribution deduction in excess of \$500 unless the donee organization provides the donor with a Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, with respect to the donation (or a written acknowledgement with the same information). See the instructions for Form 1098-C for more information.

Line 8. Disclosure of Excess Business Holdings. Line 8 is required to be answered by **sponsoring organizations** maintaining **donor advised funds** and certain section 509(a)(3) **supporting organizations**. Such organizations must answer “Yes” if the organization is the sponsoring organization of a donor advised fund that had excess business holdings at any time during the organization’s **tax year**, or if the organization is a 509(a)(3) supporting organization of the type described below that had excess business holdings at any time during the organization’s tax year. All other organizations should leave this line blank and go to line 9. If “Yes,” see the Instructions for Form 4720, *Schedule C*, to determine whether the organization is subject to the excess business holdings tax under section 4943 and is required to file Form 4720.

Donor advised funds. For purposes of the excise tax on excess business holdings under section 4943, a **donor advised fund** is treated as a **private foundation**.

Supporting organizations. Only certain supporting organizations are subject to the excess business holdings tax under section 4943. These include:

- Type III supporting organizations that are not functionally integrated; and
- Type II supporting organizations that accept any gift or **contribution** from a person who, by himself or in connection with a related party, controls a supported organization of such Type II supporting organization.

To determine whether the organization is a **supporting organization** and if so, what type of supporting organization it is, see the Instructions for Schedule A, Public Charity Status and Public Support, Part I, line 11.

Line 9. 501(c)(3) and other sponsoring organizations maintaining donor advised funds. Line 9 is required to be completed by **sponsoring organizations** maintaining a **donor advised fund**. All other organizations may leave this line blank and go to line 10.

Line 9a. Section 4966 taxable distributions. Answer “Yes” if the organization made any taxable distributions under section 4966 during the organization’s **tax year**.

Under section 4966, a taxable distribution includes a distribution from a **donor advised fund** to an individual. A taxable distribution also includes a distribution from a donor advised fund to an estate, partnership, association, company or corporation unless:

- (1) the distribution is for a charitable purpose (i.e., a purpose described in section 170(c)(2)(B)), and
- (2) the organization exercises expenditure responsibility with respect to the distribution.

The above does not apply to distributions to any organization described in section 170(b)(1)(A) (other than a disqualified supporting organization, defined in section 4966(d)(4)), to the **sponsoring organization** of such donor advised fund, or to any other donor advised fund.

Line 9b. Distribution to donor, donor advisor, or related person. Answer "Yes" if the organization made a distribution from a **donor advised fund** to a donor, **donor advisor**, or related person during the organization's **tax year**. For purposes of this question, a related person is any **family member** of the donor or donor advisor and any 35% controlled entity (as defined in section 4958(f)) of the donor or donor advisor.

Caution: If an organization makes a distribution from a donor advised fund resulting from the advice of a donor, donor advisor, a family member, or a 35% controlled entity of any of these persons, which distribution directly or indirectly benefits one of such persons, section 4967 imposes a tax on (1) the person upon whose advice the distribution was made, (b) the beneficiary of the distribution, and (3) a fund manager for knowingly agreeing to make the distribution. The persons liable for the section 4967 tax must file Form 4720 to pay the tax.

Line 10. Section 501(c)(7) organizations. Answer lines 10a and 10b only if the organization is exempt under section 501(c)(7).

Tip: Nondiscrimination policy. A section 501(c)(7) organization is not exempt from income tax if any written policy statement, including the governing instrument and bylaws, allows discrimination on the basis of race, color, or religion.

However, section 501(i) allows social clubs to retain their exemption under section 501(c)(7) even though their membership is limited (in writing) to members of a particular religion, if the social club:

1. Is an auxiliary of a fraternal beneficiary society exempt under section 501(c)(8), and
2. Limits its membership to the members of a particular religion; or the membership limitation is:
 - a. A good-faith attempt to further the teachings or principles of that religion, and
 - b. Not intended to exclude individuals of a particular race or color.

Line 10a. Initiation fees and capital contributions. Enter the amount of initiation fees, capital contributions, and unusual amounts of income included in Part VIII, Statement of Revenue, Line 12, Total Revenue, but not included in the definition of **gross receipts** for 501(c)(7) exemption purposes as discussed in Appendix C. However, if the organization is a college fraternity or sorority that charges membership initiation fees but not annual dues, do not include such initiation fees.

Line 10b. Gross receipts from public use of facilities. Enter the amount of **gross receipts** included in Part VIII, Statement of Revenue, line 12, Total Revenue, derived from the general public for the use of the organization's facilities, that is, from persons other than members or their spouses, dependents, or guests.

Tip: Form 990-T. Include the income shown on line 10b on the club's Form 990-T if required to be filed. Investment income earned by a section 501(c)(7) organization is not tax-exempt income unless it is set aside for the following purposes: religious, charitable, scientific, literary, educational, or prevention of cruelty to children or animals.

If the combined amount of an organization's gross investment income and other **unrelated business income** exceeds \$1,000, it must report the investment income and other unrelated business income on Form 990-T.

Line 11. Section 501(c)(12) organizations. Answer lines 11a and 11b only if the organization is exempt under section 501(c)(12).

One of the requirements that an organization must meet to qualify under section 501(c)(12) is that at least 85% of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. For purposes of section 501(c)(12), the term "gross income" means **gross receipts** without reduction for any cost of goods sold.

Gross income for mutual or cooperative electric companies is figured by excluding any income received or accrued from:

1. Qualified pole rentals,
2. Any provision or sale of electric energy transmission services or ancillary services if the services are provided on a nondiscriminatory open access basis under an open access transmission tariff; approved or accepted by the Federal Energy Regulatory Commission (FERC) or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),
3. The provision or sale of electric energy distribution services or ancillary services if the services are provided on a nondiscriminatory, open-access basis to distribute electric energy not owned by the mutual or electric cooperative company:
 - a. To end-users who are served by distribution facilities not owned by the company or any of its members (other than income received or accrued directly or indirectly from a member), or
 - b. Generated by a generation facility not owned or leased by the company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member).
4. From any nuclear decommissioning transaction, or
5. From any asset exchange or conversion transaction.

For a mutual or cooperative telephone company, gross income does not include amounts received or accrued either from another telephone company for completing long distance calls to or from or between the telephone company's members, from qualified pole rentals, from the sale of display listings in a directory furnished to the telephone company's members, or from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

Line 12. 4947(a)(1) trusts. All organizations that are not 4947(a)(1) trusts are to leave line 12 blank.

If a 4947(a)(1) **nonexempt charitable trust** has no taxable income under Subtitle A, its filing of Form 990 may be used to meet its income tax return filing requirement under section 6012. Such a trust must, if it answers "Yes" to line 12a, report its tax-exempt interest received or accrued (if reporting under the accrual method) during the **tax year** on line 12b.